



3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

☒ Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicants have inadvertently overlooked the need for a petition and fee for extension of time.

☐ Applicants petition for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 120.00	\$ 60.00
<input type="checkbox"/> two months	\$ 450.00	\$ 225.00
<input type="checkbox"/> three months	\$ 1,020.00	\$ 510.00
<input type="checkbox"/> four months	\$ 1,590.00	\$ 795.00

Extension of time fee due with this request: \$0.00

If an additional extension of time is required, please consider this a Petition therefor.

☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	56	minus	56	0	x \$50 each=	+ \$ -0-
Independent Claims (37 C.F.R. §1.16(b))	13	minus	13	0	x \$200 each=	+ \$ -0-
[ ] First presentation of Multiple dependent claim(s)					\$360.00	+ \$ -0-
SUB-TOTAL =						\$ -0-
Reduction by ½ for filing by a small entity						- \$
TOTAL FEE =						\$ -0-

6. Fee Payment

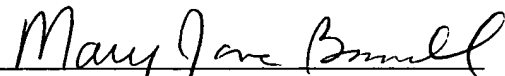
- ☒ No fee is to be paid at this time.
- ☐ The Commissioner is hereby authorized to charge **\$0.00** to Deposit Account No. 50-0310.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: January 11, 2005

By:

  
 Mary Jane Boswell  
 Reg. No. 33,652

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PATENT  
ATTORNEY DOCKET NO.: 053847-5003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
 )  
Tohru ISHIZUYA et al. ) Confirmation No.: 2939  
 )  
Application No.: 10/676,733 ) Group Art Unit: 2873  
 )  
Filed: October 2, 2003 ) Examiner: E. Lester  
 )  
For: OPTICAL ELEMENT, )  
THIN FILM STRUCTURE, )  
OPTICAL SWITCH, AND METHOD OF )  
MANUFACTURING )  
OPTICAL ELEMENT )

Commissioner for Patents  
U.S. Patent and Trademark Office  
220 20th Street S.  
Customer Window  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

Sir:

**RESPONSE TO ELECTION/RESTRICTION REQUIREMENT**

In response to the restriction requirement set forth in the Office Action mailed December 17, 2004, the Examiner required restriction under 35 U.S.C. § 121 between claims of Invention I, drawn to an optical element or device (claims 1-23, and 27-56) and Invention II, drawn to a method of manufacturing an optical element (claims 24-26).

Applicants hereby elect without traverse the invention defined by the Examiner as Invention I, which include claims 1-23 and 27-56 drawn to an optical element or device.

Applicants respectfully request formal examination of this application.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 136 not accounted for above, such extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS, LLP**

Dated: January 11, 2005

By: Mary Jane Boswell  
Mary Jane Boswell  
Reg. No. 33,652

**CUSTOMER NO. 009629**

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